

DAC \$ #17

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PTO/SB/61 (7-99)
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Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)

Docket Number (Optional)
DVL-003PAT

First named inventor: Donald V. Lightcap et al.

Group Art Unit: 1616

Application Number: 09/128,753

Examiner: Alton Pryor

Filed: August 4, 1998

Title: COMPOSITION, METHOD, AND APPARATUS FOR PROTECTING PLANTS FROM INJURY CAUSED BY FROST OR FREEZING TEMPERATURES

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay

1. Petition fee

- ☒ small entity - fee \$ 55.00 (37 CFR 1.17(I)).
☐ small entity statement enclosed herewith.
☒ small entity statement previously filed.
☐ other than small entity - fee \$ _____ (37 CFR 1.17(I)).

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OFFICE OF PETITIONS

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Amendment and Response (identify the type of reply):

- ☐ has been filed previously on _____
☒ is enclosed herewith.

07/17/2002 AWONDAF1 00000176 09128753

B. The issue fee of \$ _____

01 FC:240

55.00 OP

- ☐ has been paid previously on _____
☐ is enclosed herewith.

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Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
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3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity
or _____ for other than a small entity) disclaiming a period equivalent to the period of
abandonment is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply
from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was
unavoidable, is enclosed.

July 10, 2002

Date

Signature

Telephone

Number: 513) 229-0383

Mark F. Smith

Typed or printed name

7577 Central Park Boulevard, Suite 316

Address

Mason, Ohio 45040

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Small Entity Status Form

☒ Additional sheets containing statements establishing unavoidable delay

☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as
first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC,
Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-6916.

July 10, 2002

Date

Mark F. Smith

Signature

Mark F. Smith

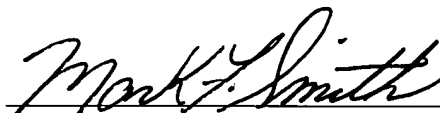
Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants
and by any other party who is presenting statements concerning the cause of delay.

July 10, 2002

Date



Signature

Mark F. Smith

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

An Office Action was mailed on September 21, 2001, to the Applicants. The Applicant (Mark F. Smith) has carefully reviewed his files and has confirmed that the Office Action was never received by the Applicants.

On May 8, 2002, a Notice of Abandonment was sent by the Patent and Trademark Office and was received by the Applicant Mark F. Smith on May 13, 2002. Mr. Smith immediately called the Examiner concerning the status of the subject application and requested a copy of the September 21, 2001 Office Action. A copy of the Action was obtained by the Examiner and was faxed to Mr. Smith on June 14, 2002.

Since receiving the Office Action, Mr. Smith has had several discussions with the Examiner concerning the Office Action and the appropriate Response and has diligently prepared an Amendment and Response to the Office Action. The Amendment and Response is being filed herewith.

(Please attach additional sheets if additional space is necessary)